

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 25-46 and 49 are pending in the present application, Claims 25, 34, and 44-46 having been amended, Claims 47 and 48 having been canceled without prejudice or disclaimer, Claim 49 having been added, and Claims 27 and 35-46 having been withdrawn. Support for new Claim 49 is found, for example, in Applicants' Fig. 2A and page 13, line 6 to page 14, line 2 of the specification. The other amendments pertain to matters of form. Applicant respectfully submits that no new matter is added.

In the outstanding Office Action, Claims 25, 26, and 28 were rejected under 35 U.S.C. §103(a) as unpatentable over Ramadas (U.S. Patent No. 6,477,291) in view of Solgard (U.S. Patent No. 6,097,859); Claims 29-34 were rejected under 35 U.S.C. § 103(a) as unpatentable over Ramadas in view of Solgard, and further in view of Ma (U.S. Patent No. 7,236,660) and Ducellier (U.S. Patent No. 7,236,660).

With respect to the rejection of Claim 25 as unpatentable over Ramadas in view of Solgard, Applicant respectfully traverses this ground of rejection. Claim 25 recites, *inter alia*,

a selection module including at least one selection element configured to ***select a single optical channel from among a set of at least two optical channels*** of the first optical lines or second optical lines ***and not any other optical channel of the set***, the optical channels of the set having a same rank, the selection element including at least one deviation element associated with at least one deflection element configured to assume plural angular positions, ***the selection of the single optical channel being made according to an angular position of the deflection element***.

Ramadas and Solgard do not disclose or suggest every element of Claim 25.

Fig. 2 of Ramadas shows an optical switching system 200. Apparatus 207 couples incoming fiber bundles 213 to outgoing fiber bundles 215. Fiber bundles 213 include channels 209 and fiber bundles 215 include channels 219. Ramadas does not disclose the claimed “select a single optical channel from among a set of at least two optical channels...and not any other optical channel of the set.” Out of the plurality of optical channels 209, there is no description in Ramadas of only selecting one of the optical channels and not any other optical channels in set 209. Out of the plurality of optical channels 219, there is no description in Ramadas of only selecting one of the optical channels and not any other optical channels in set 219.

Page 3 of the Office Action states “See also entire disclosure for relevance pertaining to applicants limitations regarding the ranking and selection of signal.” Ramadas has been reviewed and does not disclose the claimed “select a single optical channel from among a set of at least two optical channels...and not any other optical channel of the set.” Moreover, such a statement in the Office Action is in violation of 37 CFR §1.104, which states “The examiner’s action *will be complete* as to all matters,” and “When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part of relied upon *must be designated as nearly as practicable*. The pertinence of each reference, if not apparent, *must be clearly explained and each rejected claim specified*.”¹

Page 3 of the Office Action refers to col. 4, lines 44-67 and col. 5, lines 1-5 of Ramadas. This section of Ramadas does not disclose the claimed “select a single optical channel from among a set of at least two optical channels...and not any other optical channel of the set.” The reference to a control device 205 does not render the claimed “select a single optical channel from among a set of at least two optical channels...and not any other optical channel of the set” obvious. A position that the Ramadas control device can be

¹ Emphasis added.

modified to arrive at the claimed device is insufficient to establish a prima facie case of obviousness.²

Also, it is not clear that the Office has considered the claimed “select a single optical channel from among a set of at least two optical channels...and not any other optical channel of the set.” MPEP §2114 states that functional limitations defining structure by the function performed by that structure are valid claim limitations that this section instructs “must be evaluated and considered, just like any other limitation of the claim” It is well established that each word of every claim must be given weight. See In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Solgard does not cure the above-noted deficiency in Ramadas. Solgard describes a multi-wavelength cross-connect optical switch. Solgard states:

In this switch 10, the wavelength channels 12a, 12b, 12c of three input fibers 14a, 14b, 14c are collimated and spatially dispersed by a first (or input) diffraction grating-lens system 16. *The grating-lens system 16 separates the wavelength channels in a direction perpendicular to the plane of the paper, and the dispersed wavelength channels are then focused onto a corresponding layer 18a, 18b, 18c of a spatial micromechanical switching matrix 20. The spatially reorganized wavelength channels are finally collimated and recombined by a second (or output) diffraction grating-lens system 22 onto three output fibers 24a, 24b, 24c.*³

Rather than select a single optical channel, the above-noted paragraph of Solgard describes how the diffraction gratings separate wavelength channels, which is not the same as selecting a single wavelength channel (and not selecting any of the other optical channels in the set) according to an angular position of a deflection element. Elements 16, 22, 18a, 18b, and 18c of Solgard do not equate to a selection element that selects a single optical channel

²See MPEP 2143.01-III stating that the “fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness.”

³ Solgard, col. 3, lines 58-65.

from among a set of at least two optical channels of the first optical lines or second optical lines. In Solgard, there is no selection of a single wavelength channel (12a, 12b, or 12c). Each of layers 18a, 18b, and 18c of the switching matrix does not select only a single optical channel. Each layer includes six micro mirrors 46a to 46f arranged in two columns 48a and 48b. They can be individually controlled so as to optically “couple” any of the three input fibers 14a, 14b, and 14c to any of the three output fibers 24a, 24b, and 24c.⁴

Fig. 2 of Solgard illustrates layer 18a. Any incident light beam among three possible incident light beams is deviated and can take at the output any position among three possible output positions. There is no particular position of the micro mirrors that selects only a single optical channel of a set and does not select any other optical channel of the set. The six micro mirrors of Solgard do not allow the selection of a single optical channel from among a set of at least two optical channels.

Thus, Solgard does not disclose or suggest at least the claimed “select a single optical channel from among a set of at least two optical channels...and not any other optical channel of the set”

Since neither Ramadas nor Solgard disclose the claimed “select a single optical channel from among a set of at least two optical channels...and not any other optical channel of the set,” a person of ordinary skill in the art could not properly combine Ramadas and Solgard to arrive at the invention defined by Claim 25.

In view of the above-noted distinctions, Applicant respectfully submits that amended Claim 25 (and any claims dependent thereon) patentably distinguish over Ramadas and Solgard, taken alone or in proper combination.

⁴ Solgard, col. 4, lines 8-15.

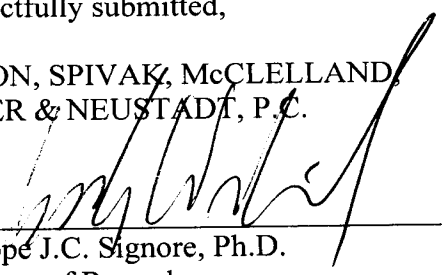
Addressing each of the further rejections, each of the further rejections is also traversed by the present response as no teachings in any of the further cited references to Ma and Ducellier can overcome the above-noted deficiencies of Ramadas and Solgard.

Moreover, withdrawn Claims 27 and 35-46 depend directly or indirectly from Claim 25. Thus, Claims 27 and 35-46 should be rejoined and allowed with Claim 25.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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